

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

1. CRM No. M-26794 of 2016 (O&M) Date of Decision: 22.05.2017

Sandeep Singh @ Sonu

--Petitioner

Versus

State of Punjab

--Respondent

2. CRM No. M-41580 of 2016 (O&M)

Palwinder Singh @ Jaggu

--Petitioner

Versus

State of Punjab

--Respondent

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. P.B.S. Sidhu & Mr. Kapil Khanna,
Advocate for Mr. K.S. Dhanju,
Advocate for the petitioners.

Ms. Harpreet K. Athwal, D.A.G., Punjab.

TEJINDER SINGH DHINDSA.J

This order shall dispose of CRM No. M-26794 of 2016 (Sandeep Singh @ Sonu Vs. State of Punjab) and CRM No. M-41580 of 2016 (Palwinder Singh @ Jaggu Vs. State of Punjab) as both these petitions have been filed under Section 439 Cr.P.C seeking the benefit of regular bail pending trial to the petitioners in case FIR No.120 dated 12.12.2015 under sections 302, 307, 326, 148, 149 I.P.C, registered at Police Station, Bahaw Wala, District Fazilka.

Counsel for the parties have been heard.

FIR came to be registered on the statement of Ranjit Singh in relation to an occurrence that took place on 12.12.2015. Complainant asserted that Gurjant Singh was his younger brother and Bhim Tank was a friend. As per prosecution version, Wazir Singh and Raja used to extort money from vehicles coming from other towns and Bhim Tank, who was a former President of the Pick-up Union used to object such activity.

Allegations are that on 12.12.2015 Harpreet Singh @ Harry called up Gurjant Singh and asked him as also Bhim Tank to come to the farmhouse of one Shiv Lal Doda and where Amit Doda i.e. nephew of Shiv Lal Doda would attempt to facilitate a compromise between Wazir and Raja on the one hand and Bhim Tank on the other. Complainant has asserted that Bhim Tank and Gurjant proceeded in an Innova vehicle and the complainant himself along with his maternal uncle Jaspal Singh @ Bhola and Ajay Kumar followed in a Nissan Terrano car. Bhim Tank and Gurjant having reached the farmhouse were attacked brutally by Harpreet Singh @ Harry, Raja, Wazir Singh, Radhey Sham @ Radhiya, Gulabia, Devender @ Pari, Vicky Pandit, Simran, Chhajju, Happy and 6/7 other unidentified persons, who were already present. Specific allegations are that Harpreet Singh @ Harry, Wazir Singh, Raja and Gulabia amputated all the four limbs of Bhim Tank being armed with *kirpans* and *tokkas*. Gurjant Singh i.e. brother of the complainant was also assaulted and his right hand was chopped off and he was inflicted other injuries as well. Bhim Tank and Gurjant were then taken to Civil Hospital, Abohar and after having been administered first aid were taken to Amandeep Hospital, Amritsar. Bhim Tank died on the same very date, whereas Gurjant Singh was admitted to Amandeep Hospital, Amritsar.

Sandeep Singh @ Sonu i.e. petitioner in CRM No. M-26794 of 2016 was arrested on 20.12.2015 and Palwinder Singh @ Jaggu i.e. petitioner in CRM No. M-41580 of 2016 was arrested on 23.12.2015.

Counsel appearing for the petitioners in these two connected petitions would argue that the names of the two petitioners herein do not even find a mention in the FIR as per initial version recorded of the complainant Ranjit Singh. The final investigation report placed on record at

Annexure p-3 has also been adverted to to contend that Ajay Kumar son of Ram Kumar, who was stated to be an eye witness to the occurrence has made a statement that Sandeep Singh @ Sonu and Palwinder Singh @ Jaggu i.e. two petitioners herein were employees in the liquor vends of Shiv Lal Doda and Amit Doda and were present at the farmhouse equipped with weapons and vehicles. Submission raised is that the two petitioners herein are sought to be implicated in an attempt to rope in all the employees and other persons associated and in employment of the main accused Shiv Lal Doda and Amit Doda.

During the course of arguments today, deposition of Gurjant Singh, PW-19 has been read out. In his examination-in-chief Sandeep Singh @ Sonu and Palwinder Singh @ Jaggu are stated to have been armed with iron rods and inflicted iron rod blows upon the person of Gurjant Singh injured. In such deposition there is a specific attribution to Harpreet Singh @ Harry, Rajpreet Singh @ Raja, Wazir Singh, Gulabia, Pari and Radhiya being armed with big *tokkas*, *swords* and having caused the amputations of the four limbs of Bhim Tank. In the deposition of Gurjant Singh, PW-19 there is no overt act/injury attributed to the present petitioners on the person of Bhim Tank (since deceased).

In so far as amputation of the right hand of Gurjant Singh is concerned, the same is specifically attributed to Harpreet Singh @ Harry while Chhajju @ Gagga @ Ajay Pal had caught hold of the right arm.

This Court has been apprised that in the trial that has ensued, out of 83 prosecution witnesses 41 have been examined till date.

The trial, as such, would take time to conclude.

It goes without saying that the incident is of an extremely brutal attack launched upon Bhim Tank (since deceased) and Gurjant Singh.

However, as per version of material witness i.e. Ranjit Singh, brother of Gurjant Singh and who was the complainant as also Gurjant Singh himself, who already stands examined before the Trial Court as PW-19, no injury is attributed to the present petitioners on the person of Bhim Tank (deceased).

It is also the contention raised by counsel appearing for the petitioners that even though the initial version was in relation to the talks of a compromise to be held at the farmhouse of Shiv Lal Doda but thereafter an attempt has been made to change the version and show the occurrence to be at a liquor vend of Shiv Lal Doda and in such process the present two petitioners in the capacity of employees of the liquor vends are sought to be implicated.

Without making any observations on merits, in view of the discussion above and keeping in view the length of incarceration i.e. of more than 1 ½ years already suffered by the petitioners, they are held entitled to the benefit of bail. Accordingly, the present petition is allowed. Petitioners be enlarged on bail subject to satisfaction of Trial Court/Duty Magistrate, Fazilka.

Petitions disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

22.05.2017

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Whether speaking/reasoned:	Yes
Whether Reportable:	No